



Could the South China Sea bubble over into conflict?

By Charles Parton

The Chinese Communist Party (CCP) claims that the Chinese people have 'peaceful genes.' Meanwhile the CCP is taking an aggressive stance in the two potential global flashpoints of Taiwan and the South China Sea. The pursuit of realpolitik allows the Party no pause to savour the irony.

Of the two flashpoints, the CCP's actions in the Second Thomas Shoal against the Philippines are the more likely to spill over into conflict in the short term. None of the four parties most closely involved – the People's Republic of China (PRC), the Philippines, the United States (US) and the Association of Southeast Asian Nations (ASEAN) – wants armed conflict. No nation ever does. Yet wars break out. This report looks at what is going on from their quadripartite viewpoints.

A reminder of the background

The CCP claims control over all waters and features within a '9 dash line' (it recently added a tenth dash to the east of Taiwan). The '9/10 dash line' extends between 1,000 and 1,600km from the southernmost point of the PRC's Hainan



Island. It encompasses the Spratly Islands and the Scarborough Shoal (respectively, around 195 and 230 km from the nearest Philippine island) and the Natuna Islands (within Indonesia's Exclusive Economic Zone – 200 nautical miles ((nm)).

The meaning of 'control' has not been clearly spelled out, but the CCP does not tolerate other countries' activities around islands, reefs and other features, or in their surrounding waters.

However, there is no historical or legal basis for CCP claims. In 2016 an arbitral tribunal appointed by the Permanent Court of Arbitration in The Hague and constituted under the UN Convention on the Law of the Sea (UNCLOS) ruled that the PRC's claims based on the nine-dash line were invalid under UNCLOS; that the PRC's claims to land features in the Spratly Islands did not generate a 200 nm exclusive economic zone; and that the PRC had violated the Philippines' sovereign rights by interfering in natural resource exploration and fishing activities, and by carrying out land reclamations. The PRC has signed and ratified UNCLOS. The CCP rejected the verdict of its tribunal.

Ferdinand 'Bongbong' Romualdez Marcos Jr., President of the Philippines, has rowed back from the more accommodating policies of his predecessor Rodrigo Duterte. He has called out CCP infringements.

The Second Thomas Shoal has attracted particular attention. The Philippines maintains a small detachment of troops aboard a ground ship, the Sierra Madre, which is rotting and requires upkeep to ensure that it does not disintegrate, leaving the men no shelter. The worst of recent confrontations took place on 17th June, when the China Coast Guard (CCG), attacked boats attempting to bring supplies and, it seems, materials to shore up the Sierra Madre. Chinese personnel were filmed attempting to disable the rubber boats with long knives and axes. They dumped supplies in the sea and injured one Filipino.

The CCP's aims

The CCP's immediate aim is to force the Philippines to ask permission before any resupply of the Sierra Madre. This would constitute an implicit admission of the PRC's sovereignty.

In the longer term, by preventing any repair of the ship, the CCP hopes that its deteriorating condition, hastened by the assaults of nature, will cause the Sierra Madre to collapse, thus forcing the withdrawal of Philippine troops from the Second Thomas Shoal. The Chinese would then enforce sovereignty, perhaps also doing what they have done elsewhere, namely building an island capable of



sustaining a garrison. The CCP has reiterated publicly that ‘China has no intention of occupying Second Thomas Shoal, but only hopes that the feature can be restored to its natural state.’¹ The problem in accepting that statement is the promise made by Xi Jinping, General Secretary of the CCP, to Barack Obama, then President of the US, in 2015, not to militarise the Spratly Islands. They now bristle with military bases.

If, at the time when the Sierra Madre falls apart, the CCG can be instrumental in rescuing the Filipino soldiers, this would present a fine propaganda opportunity.

Hitherto the CCP has been patient, letting time and nature destroy the ship. It does not want the situation to escalate. For the moment the People’s Liberation Army navy (PLAN) is being kept over the horizon, while the CCG leads the charge. A high-profile conflict risks bringing in the US, which has a defence treaty with the Philippines. That way danger lies, at least until the CCP is confident that the PLAN can face down the US navy. Nevertheless, it is using all measures short of armed conflict (in a parallel with the non-use of guns in the Galwan confrontation with India on their disputed border). Violence – not least through the deployment of specially designed water cannons, which can inflict serious injury – brings a danger of unplanned escalation.

By gaining and displaying sovereignty over the Second Thomas Shoal, the CCP seeks to demonstrate to countries in the region that the US is powerless to help them, and that acquiescence, rather than confrontation, is the line which they must take in the South China Sea and elsewhere. The CCP has recently soft-peddled in the case of Vietnam, with whom it also has maritime disputes – perhaps it is sufficient to use the Philippines to warn others not to follow Duterte in moving closer to the US.

Another reason for the CCP to be patient is to see what stance a possible Trump administration takes next year. The re-aspiring president’s gift for ambiguity might make Beijing wonder whether he might abandon support for the Philippines.

The Philippines’ changes of policy

The current president Marcos has been forward in resisting Chinese pressure. Unlike his predecessor, he has not kept silent, but rather used publicity to bolster

¹ ‘Foreign Ministry Spokesperson’s Remarks on the Statement of the Philippine Department of Foreign Affairs Concerning Ren’ai Jiao’, 中华人民共和国外交部 [Ministry of Foreign Affairs of the People’s Republic of China], 08/08/2023, <https://www.fmprc.gov.cn/> (checked: 06/09/2024).



his armoury in the uneven contest. Foreign journalists have accompanied Filipino forces attempting resupply missions. Their reports and films have put the CCP on the propaganda back foot.

Marcos has also upped the verbal offensive. In June he said that:

If by a wilful act a Filipino – not only serviceman, but even Filipino citizen – is killed... that is what I think very, very close to what we define as an act of war and therefore we will respond accordingly. And our treaty partners, I believe, also hold that same standard.²

A death was: 'Almost certainly [it's] going to be a red line.' 'Very close' and 'almost' leave a small amount of wiggle room – but not much.

Concerns of the United States

The US State Department put out a statement saying that, 'Article 4 of the 1951 United States/Philippines Mutual Defense Treaty extends to armed attacks on Philippine armed forces, public vessels or aircraft, including those of its coastguard anywhere in the South China Sea.'³ Anthony Blinken, US Secretary of State, and Lloyd Austin, US Secretary of Defence, declared in a press conference with their Philippine counterparts that:

We stand by our ironclad defence commitment to the Philippines under the Mutual Defense Treaty. That extends to armed attacks on Filipino armed forces, public vessels or aircraft – including the coast guard – anywhere in the Pacific, including the South China Sea.⁴

But the definition of an 'armed attack' is a nice one. Clearly, water cannons do not qualify, despite their destructive force, although they might if someone were killed by one. There is a similarity with the situation on the Indian-Chinese border, where there have been fatalities, even if guns were not used. The US

² Tessa Wong, 'Philippine president warns China against 'acts of war'', *BBC News*, 31/05/2024, <https://www.bbc.co.uk/> (checked: 11/09/2024).

³ 'U.S. Support for the Philippines in the South China Sea', U.S. Department of State, 17/06/2024, <https://www.state.gov/> (checked: 06/09/2024).

⁴ 'Secretary Antony J. Blinken, Secretary of Defence Lloyd J. Austin III, Philippine Secretary of Foreign Affairs Enrique A. Manalo, and Philippine Secretary of National Defence Gilberto Teodoro Jr. at a Joint Press Availability', U.S. Department of State, 30/07/2024, <https://www.state.gov/> (checked: 06/09/2024).



would have a dilemma if Marcos were to call on his treaty ally for help following the 'wilful' death of a Filipino which he would describe as an act of war.

American failure to help would allow the CCP to point out to countries in the region that American power had become a 'paper tiger.' Yet the dangers of escalation, if the US were to send forces and the PLAN did not back down, are obvious. And time is on the side of the CCP, since the Sierra Madre will not survive forever. A recent report has suggested that under Duterte the ship has been reinforced – probably with American help – 'sufficient to fortify it for years.'⁵ Whether a typhoon or persistent bad weather would agree with that assessment is moot.

If the Sierra Madre has been significantly reinforced, the Chinese will be determined not to allow it to happen again. The Philippine navy is unlikely to be able to run a Chinese gauntlet to bring in materials. This would pose a serious dilemma for the US. Helping would risk a violent confrontation with the PRC, one which could escalate. Standing aside would ruin its credibility as a reliable security partner in the region.

ASEAN attitudes

Besides the Philippines, four of the ten members of ASEAN have maritime disputes with the PRC in the South China Sea. Vietnam has clashed with the PRC in the past; in 2014, 2017 and 2019 over oil drilling in disputed territory.⁶ Malaysia, Indonesia and Brunei have tried to avoid direct confrontation, although in early September, Malaysia was told by the PRC to stop oil exploration within its claimed territorial waters.⁷

In 2002, ASEAN and the PRC signed a non-binding Declaration of Conduct of Parties in the South China Sea. Despite much effort and exhortation, this has not been followed up by a binding Code of Conduct (COC). In July last year the PRC and ASEAN agreed new guidelines for negotiating a binding COC. Guidelines for negotiation are one thing, a binding agreement another – and the CCP will only be bound by what accords with its interests. Changing that would require a unanimous and forceful approach by ASEAN countries.

⁵'Philippines Fortifies South China Sea Outpost to Last a Decade', *Bloomberg*, 02/08/2024, <https://www.bloomberg.com/> (checked: 06/09/2024).

⁶For an account of Vietnam/China disputes in the South China Sea, see: 'Vietnam tacks between confrontation and struggle in the South China Sea', *The Crisis Group*, 07/12/2021, <https://www.crisisgroup.org/> (checked: 06/09/2024).

⁷'Malaysia will not stop South China Sea exploration despite China protests, PM says', *Reuters*, 05/09/2024, <https://www.reuters.com/> (checked: 06/09/2024).



Such forcefulness is absent. Vietnam, Malaysia, Indonesia and Brunei have not been vocal in support of the Philippines, or about indeed their own disputes. They seem content to let the Philippines take the flak. Despite past clashes, Vietnam, particularly under its present leadership, maintains a degree of ideological alignment with China, as two of the world's five remaining communist governments. ASEAN members, conscious of their reliance on the economic, trade and investment power of the PRC, are reluctant to oppose CCP actions openly. And the CCP is adept at using close relations with countries such as Laos and Cambodia to stymie any initiative which would threaten its interests.

Recent developments in the South China Sea

On 21st July, the Philippines and the PRC agreed a 'provisional arrangement on humanitarian resupply of living necessities' for the troops stationed on the Sierra Madre on the Second Thomas Shoal. Six days later the resupply mission went ahead. This passed off peacefully, but not without controversy. The Chinese insisted that they carried out 'on the scene' inspection to ensure that nothing except living supplies went in, while a Philippine spokesman claimed that nine Chinese ships 'maintained their distance.'⁸ The significance is that prior notification and on-site verification by the PRC (which Manila denies⁹) equates to requesting permission and a tacit admission of Chinese sovereignty. Gilbert Teodoro, the Philippines' Defence Secretary, characterised the issue of notification as: 'I think the more accurate term is exchange of information.'¹⁰

All three parties wanted to reduce tensions. But as reported in *China Daily*, what was agreed on 21st July is a 'temporary arrangement.... to allow humanitarian supplies to be delivered... But the PRC made it categorically clear that it will not tolerate any attempts to build fixed facilities or permanent outposts on the reef.'¹¹ Time and typhoons are on the CCP's side as the Sierra Madre rusts.

The pot continues to simmer, even if it has yet to boil over. On 8th August, away from the Second Thomas Shoal, at the Scarborough Shoal, close to the main

⁸ 'Philippines Performs First Sierra Madre Resupply Since Inking Deal with China', *USNI News*, 29/07/2024, <https://news.usni.org/> (checked: 06/09/2024).

⁹ Laura Zhou, 'Deal or no deal? China and Philippines at odds over Second Thomas Shoal resupply agreement', *South China Morning Post*, 23/07/2024, <https://www.scmp.com/> (checked: 06/09/2024).

¹⁰ 'Secretary Antony J. Blinken, Secretary of Defense Lloyd J. Austin III, Philippine Secretary of Foreign Affairs Enrique A. Manalo, and Philippine Secretary of National Defense Gilberto Teodoro Jr. at a Joint Press Availability', U.S. Department of State, 30/07/2024, <https://www.state.gov/> (checked: 06/09/2024).

¹¹ 'Talks can ease South China Sea frictions: China Daily editorial', *China Daily*, 22/07/2024, <https://www.chinadaily.com.cn/> (checked: 06/09/2024).



Philippine island of Luzon, a People's Liberation Army (PLA) aircraft dropped flares in front of a Philippine air force aircraft conducting a routine maritime patrol. The Chinese report did not deny the action, but reported it as warning off the Philippine aircraft 'in a professional manner and in accordance with the law.'¹² Both descriptions are questionable. Then on 19th August, two Philippine coast guard vessels were rammed by Chinese vessels near the Sabina Shoal, sustaining holes in their superstructures.¹³ Late August has seen further clashes at the shoal, where the Philippines has stationed a boat. The 21st July arrangement has not altered either side's determination. Indeed, while the Sierra Madre has been reinforced, so has CCP determination to prevent a similar confrontation elsewhere.

Meanwhile the Philippines has been taking action on the legal front. In June, Manila applied to the UN Commission on the Limits of the Continental Shelf (CLCS) to extend the outer limits of its continental shelf beyond the normal 200 nm delineating an exclusive economic zone. There is no chance of a verdict in its favour, since the CLCS does not review submissions which involve maritime disputes. The intention is less to gain a ruling in its favour as to expose the CCP's overbearing behaviour to global disapprobation. Interestingly, Vietnam followed suit in July.¹⁴

Implications for others

The CCP, like many aggressive powers in the past, understands and utilises the maxim 'divide and rule' – witness its handling of ASEAN. And despite its regular chanting of the mantra 'win-win', its reality accords more with Thucydides' dictum put into the mouths of the Athenians when faced with Melian refusal to surrender: 'the strong do what they can and the weak suffer what they must.' (Less pithily, in 2010, Yang Jiechi, then Chinese foreign minister, echoed that thought when he said to ASEAN countries at a meeting in Hanoi, 'China is a big country and you are small countries and that is a fact.')¹⁵ The CCP's strategy of picking off countries one by one should be resisted.

¹² 'China warns off illegally intruding Philippine aircraft in professional, legitimate manner: PLA Southern Theatre Command', *Global Times*, 11/08/2024, <https://www.globaltimes.cn/> (checked: 06/09/2024).

¹³ Richard Lloyd Parry, 'Chinese, Philippine vessels collide in South China Sea', *The Times*, 19/08/2024, <https://www.thetimes.com/> (checked: 06/09/2024).

¹⁴ 'Legal complexities add to Beijing's South China Sea disputes with its neighbours', *South China Morning Post*, 02/08/2024, <https://www.scmp.com/> (checked: 06/09/2024).

¹⁵ Tom Mitchell, 'China struggles to win friends over South China Sea', *Financial Times*, 13/07/2016, <https://www.ft.com/> (checked: 06/09/2024).



Firstly, it is important for countries to support the Philippines and others subject to CCP aggression, which will not stop with shoals in the South China Sea. Japan has long been concerned about CCP moves against its Senkaku islands, and about CCP hints at eventually 'recovering' the Ryukyu chain of islands. Unsurprisingly, Japan has been active in support of the Philippines. In July it signed a Reciprocal Access Agreement allowing troops onto each other's territory¹⁶ (the UK and Australia have similar agreements). It has also supplied radar and patrol ships. What is happening in the Himalayas on the Indian-Chinese and Bhutan-Chinese borders are terrestrial versions of the maritime tactics being employed in the South China Sea.

Secondly, countries must continue to call out the CCP's disregard for the rule of international law. The PRC has signed, ratified and ignored the UNCLOS. Its legal and historical arguments for claiming sovereignty over the South China Sea hold no water (see the companion report by Bill Hayton 'The South China Sea: Historical and legal background').¹⁷

Thirdly, European and other navies must continue to exercise the right of routine passage, recognised under international law, by sending navy ships through the Taiwan Straits and the South China Sea. They have no more need of permission from the CCP than the PLAN needed UK or French permission to send warships through the English Channel, as they did in August.¹⁸

Fourthly, the UK should continue to work actively in the region through the Five Power Defence Arrangements (with fellow members, Australia, Malaysia, New Zealand and Singapore), as well as strengthen military relations with Brunei and Indonesia.

Conclusion

Depending on its condition, there is a strong argument for American led – and internationally supported – help for the Philippines in reinforcing the structure of the Sierra Madre, as a statement of sovereignty and of rejection of the CCP's illegal bullying (unsubstantiated information suggests such help may already have been forthcoming). It would be a calculated risk. US-China relations would

¹⁶ 'Japan and the Philippines sign a defence pact in the face of shared alarm over China', *Associated Press*, 08/07/2024, <https://apnews.com/> (checked: 06/09/2024).

¹⁷ Bill Hayton, 'The South China Sea: Historical and legal background', The Council on Geostrategy, 11/09/2024, <https://www.geostrategy.org.uk/> (checked: 11/09/2024).

¹⁸ 'Royal Navy ship escorts Chinese vessels through UK waters', *Royal Navy*, 10/08/2024, <https://www.royalnavy.mod.uk/> (checked: 06/09/2024).



be put into a deep freeze. The CCP might well oppose, but ultimately is unlikely to fight, a calculus which may change in future as it continues its naval build up.

The alternative is to recognise that the ability to swamp disputed waters with ships; time, and the weather will allow the CCP to gain control over another expanse of water (the time-frame is not clear, but it would be unwise to presume that the Sierra Madre will last for too long). While not a strategic level disaster, this would reinforce in the mind of Xi Jinping that the West will always back down away from confrontation, and that he can concentrate on the next steps in his ambitions – Taiwan, the Senkaku islands and elsewhere.

Ultimately, whether to make a stand is an American decision. But Europe and other free countries should be ready to support Washington.



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